



PUBLIC NOTICE

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**Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554**

**DA 02-1239
May 23, 2002**

**XHDTV TELEVISION CORPORATION SEEKS COMMISSION
DETERMINATION OF "EXEMPT TELECOMMUNICATIONS
COMPANY" STATUS UNDER THE PUBLIC UTILITY HOLDING
COMPANY ACT**

**Comp. Pol. Div. File No: ETC 02-04
Pleading Cycle Established**

Comments Due: May 30, 2002

Reply Comments Due: June 5, 2002

On **April 25, 2002**, **XHDTV Television Corporation** (XHD or Applicant), located at **26820 Crilly Rd., Corona, CA 92883**, filed an application requesting a determination by the Federal Communications Commission (FCC or Commission) that it is an "exempt telecommunications company" (ETC), pursuant to section 34(a)(1) of the Public Utility Holding Company Act of 1935 (PUHCA),¹ as amended by section 103 of the Telecommunications Act of 1996 (the Act).²

The application indicates that XHD is wholly owned by NextG, a certified ETC and a Nevada corporation. XHD states that it will be engaged directly or indirectly, through one or more affiliates, exclusively in the business of providing advanced telecommunications services, enhanced information services, and other services or products that are either related or incremental to the provision of such products or services within the meaning of section 34(a)(1)

¹See 15 U.S.C. §§ 79 *et seq.*

²See Pub. L. No. 104-104.

of PUHCA. Applicant also states that it will conduct all of the activities described in its application in conformance with section 34(b) of PUHCA, the requirements of the Communications Act of 1934, as amended, and all applicable Commission rules, orders, and requirements.

The application indicates that XHD intends to offer enhanced IP 8VSB broadcast services, IP Digital TV (IP DTV) products, and other advanced information services. Applicant states that it will provide these services, either directly or indirectly, through affiliated and non-

affiliated IP HDTV, 8VSB broadcasting companies. XHD states that it will establish, develop, operate, and maintain a research and development facility to promote next generation advanced telecommunications services (ATS). XHD explains that it will provide enhanced MPEG2 and/or MPEG4, advanced simple profiled IP DTV-HDTV interfaces. Applicant explains that these interfaces can be decoded by digital set top boxes (STB), personal computers, and mobile or portable 3G devices. Applicant also states that it intends to offer enhanced 8VSB HDTV and IP DTV network interfaces to enhanced service providers (ESPs), providing broadband Internet, IP wireless, telephony, IP DTV video, and advanced IP datacast services on demand.

The application states XHD will offer technical and administrative services for its next generation broadband interfaces to ESPs, DTV broadcasters, and broadband Internet service providers (BISPs), allowing such entities to install and utilize network interface equipment to access enhanced IP DTV-HDTV broadband information services. In the future, XHD states that it may provide other HDTV broadcast services, interfaces, products, or provisioning of IP DTV broadcast areas or shadow DTV broadcast areas, where low power 8VSB can provide equal access to all. Applicant also states that it may offer other ATS interfaces, as permitted by section 103 of the Telecommunications Act of 1996.

In accordance with section 1.5004 of the Commission's rules, if the Commission does not issue an order denying an ETC application within sixty (60) days of receipt of an application, in this case **June 10, 2002**, the application will be deemed granted as a matter of law.³ In accordance with section 1.5003, a person applying in good faith for a Commission determination of ETC status is deemed to be an ETC from the date of receipt of the application, in this case **April 25, 2002**, until the date of Commission action pursuant to section 1.5004.⁴ In accordance with section 1.5005, the Secretary of the Commission is now notifying the Securities and Exchange Commission (SEC) that the Applicant is deemed to be an Exempt Telecommunications Company.⁵ In the event that the Commission issues an order denying the application within sixty (60) days of its receipt, the Secretary will so notify the SEC. Otherwise, the Commission will take no further action to grant this application.

This proceeding is considered a "permit but disclose" proceeding for purposes of the Commission's *ex parte* rules.⁶ Persons wishing to file comments regarding the adequacy or accuracy of **XHDTV Television Corporation**'s application requesting status as an ETC must do so no later than **May 30, 2002**. Reply comments must be filed no later than **June 5, 2002**. All filings concerning any of the matters referenced in this Public Notice should refer to CPD file number **ETC 02-04**. All comments should also be served on the Applicant.

Interested parties should file an original and four (4) copies of their comments with the Office of the Secretary, Federal Communications Commission, 445 12th St., SW, Room TW-

³See 47 C.F.R. § 1.5004.

⁴See 47 C.F.R. § 1.5003.

⁵See 47 C.F.R. § 1.5005.

⁶See generally 47 C.F.R. §§ 1.1200 - 1.1216.

A325, Washington, D.C. 20554. In addition, parties should send one (1) copy to Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC, 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail qualexint@aol.com, and two (2) copies to Carmell Weathers, Wireline Competition Bureau, Competition Policy Division, FCC, 445 12th Street, SW, Room 6-A207, Washington, D.C. 20554. Commenters are also requested to fax their comments to the FCC at (202) 418-2345, Attention: Carmell Weathers.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistrionix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

The application will be available for review and copying during regular business hours at the FCC Reference Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC 20554, (202) 418-0270. A copy of the application may also be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC, 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail at **qualexint@aol.com**.

For further information, contact Carmell Weathers, (202) 418-2325 (voice), cweather@fcc.gov, or Jon Minkoff (202) 418-2353 (voice), jminkoff@fcc.gov, of the Competition Policy Division, Wireline Competition Bureau. The TTY number is (202) 418-0484. For further information on procedures regarding Section 214 please visit http://www.fcc.gov/wcb/cpd/other_adjud/etc/welcome.html.